

**HON'BLE SRI JUSTICE A. GOPAL REDDY
AND
HON'BLE SRI JUSTICE P. SWAROOP REDDY**

W.P.NO. 16786 OF 2007

DATED: 18.9.2007

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Between:

Shaik Valli and another

... Petitioners

and

State of A.P. represented by its
Principal Secretary, Home Department and others

...

Respondents

**HON'BLE SRI JUSTICE A. GOPAL REDDY
AND
HON'BLE SRI JUSTICE P. SWAROOP REDDY**

W.P.NO. 16786 OF 2007

ORAL ORDER: (per AGR.J)

By means of filing the writ petition under Art.226 of the Constitution of India, the petitioners seek a writ of Habeas Corpus for production of one 'Challa Nageshwara Rao', alleging that he was in the custody of the unofficial respondents 4 to 8.

According to the averments made in the affidavit, the 2nd petitioner is the daughter of the 1st petitioner and she fell in love with the alleged detenu, residing opposite to their house; that the alleged detenu trapped the 2nd petitioner and in the absence of the parents of the 2nd petitioner, had developed physical intimacy with her and convinced that he would marry her shortly. When the 2nd petitioner conceived, the 1st petitioner and his wife came to know the relationship between her and the alleged detenu and have accordingly requested the family members of the detenu i.e., respondents 4 to 6 to perform their marriage, and otherwise they

would be constrained to lodge a complaint with the police. It is further alleged that when they visited the house of the respondents 4 to 6, they have been threatened and that with a dishonest intention to escape the responsibility, the family members forced the alleged detenu to leave Narsapur Town on 15.1.2003, thereby abandoned the 2nd petitioner and that the whereabouts of the detenu are not known since then.

On a complaint made by the 1st petitioner, police registered a case in Cr.No.7 of 2003 for the offences punishable under Sections 420 and 417 r/w 34 of IPC against the alleged detenu and also against the respondents 4 to 6. As the police did not complete the investigation, he also filed C.C.No.496 of 2004 on the file of the Additional Judicial I Class Magistrate, Narsapur, against the alleged detenu and his family members for the offences punishable under Sections 376, 420, 109 and 498-A IPC. The learned judge has taken cognizance of the same and as the alleged detenu did not appear before the court pursuant to the summons issued, a Non-Bailable Warrant was issued in the year 2004 and the same has not been executed so far. Therefore, this writ petition is filed alleging that the respondents 4 to 6 are very much aware of the whereabouts of the alleged detenu and sought for a direction to produce him before the court.

The 3rd respondent-SI of Police, Narasapuram Town Police Station, West Godavari District, filed a counter affidavit stating

that immediately on receipt of a complaint from the petitioners, a case in Cr.No.7 of 2003 was registered for the offences under Sections 417 and 420 of IPC and investigation was taken up and during the course of investigation, it came to light that the 2nd petitioner and the alleged detenu were in love with each other. It is also stated that the 2nd petitioner also approached A.P. Human Rights Commission, Hyderabad and National Women's Commission, New Delhi, wherein the police filed their reply stating that a crime was registered, charge-sheet filed and NBW against the alleged detenu has been pending execution.

From the averments and the counter affidavit, it is clear that on a complaint received from the petitioners, the police have registered the same as early as in the year 2003 and have taken all possible steps to apprehend the alleged detenu. Since the investigating agency could not apprehend the alleged detenu, a private complaint, as such, was filed before the learned Additional Judicial I Class Magistrate, Narsapur, which was taken cognizance of, in C.C.No.496 of 2004 for the various offences as referred to above and NBW for production of the detenu was also issued. The police, after due investigation into the crime, also laid a charge-sheet and obtained NBW, which has been pending execution.

Having regard to the facts and circumstances of the case, we direct the learned Additional Judicial I Class Magistrate,

Narsapur, to proceed with the trial of both the cases; namely the case in which the police laid the charge-sheet and also C.C.No.496 of 2004 pending before it, and take all possible steps for execution of the NBW and for production of the alleged detenu in the above crime, with utmost expedition.

With the above directions, the writ petition is disposed of.

No costs.

A. GOPAL REDDY, J

P. SWAROOP REDDY, J

Date: 18.9.2007

cvm